



— STATE OF SOUTH DAKOTA —

OFFICE OF THE GOVERNOR

KRISTI NOEM | GOVERNOR

March 25, 2022

Dear Mr. Speaker and Members of the House of Representatives,

I respectfully return to you House Bill 1223 with my VETO. House Bill 1223 is an act that modifies parental rights and revises certain informed consent provisions related to a pregnant minor's health care decisions.

The bill as drafted allows for a doctor to treat a pregnant minor even in the absence of any parental involvement. I appreciate the drafters' good intentions, and I agree that protecting the health of any mother and their child is critically important. But there are flaws in the language of the bill that require a veto.

First, House Bill 1223 states that if a parent withholds consent to treatment, then the minor may give consent instead. As a parent to three children and now a grandparent, I know that this bill erodes parental rights in a way that ultimately hurts families. Parents' constitutional rights include the right to care, custody, and control of their children. That includes the right to make healthcare decisions for their child.

There are limited exceptions to parental rights where the law allows the state to intercede and act in the best interests of the child, but House Bill 1223 does not recognize those well-established exceptions.

As originally drafted, the bill stated that a parent's decisions about their child's healthcare could be overridden if the parent *unreasonably* withheld consent for the child's care. But that word was stricken from the bill by the time it reached my desk. Under House Bill 1223, a parent could *reasonably* withhold their consent for a health procedure for their child, and the doctor could *ignore* the parent's reasonable objection. What if the parent simply wants a second opinion? After all, doctors often disagree. House Bill 1223 would wrongfully allow a doctor to ignore the parent's request for a second opinion for their child's health care.

Second, House Bill 1223 is not necessary. Physicians are currently able to treat minors without parental consent, pursuant to SDCL 20-9-4.2, when delaying care to obtain that consent would create risks to the life or health of the minor. That law has been on the books for nearly 40 years. While I know there were anecdotes shared during committee testimony that were troubling, in this case, there was no meaningful data provided to show that SDCL 20-9-4.2 is inadequate to protect the life and health of a pregnant minor.

While I believe many who voted for this bill were well intentioned, these concerns require me to oppose it. South Dakota must stand as an example for the rest of the country that we respect both parental rights and the health of their children. This bill fails to properly account for both of those interests.

For these reasons, I oppose House Bill 1223 and ask that you sustain my veto.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Kristi Noem", with a stylized flourish extending from the end of the signature.

Kristi Noem
Governor